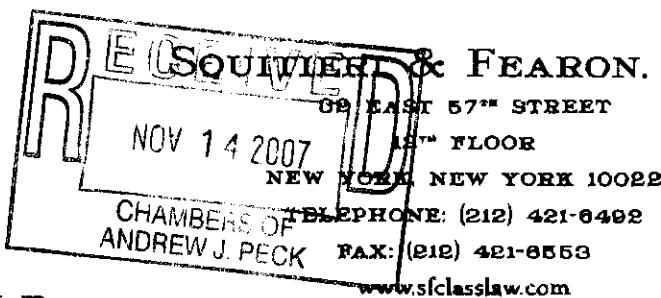


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SQUITIERI &amp; FEARON, LLP

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 \*ADMITTED TO N.Y. & N.J. BARS  
 \*\*ADMITTED TO N.Y. & CT. BARS

**VIA TELECOPIER**

Honorable Andrew J. Peck  
 United States Magistrate Judge  
 United States District Court  
 Southern District of New York  
 500 Pearl Street  
 New York, New York 10007

**Re: Vladimir v. Bioenvision, Inc., et al.**  
**Docket No.: 07-civ-6416**

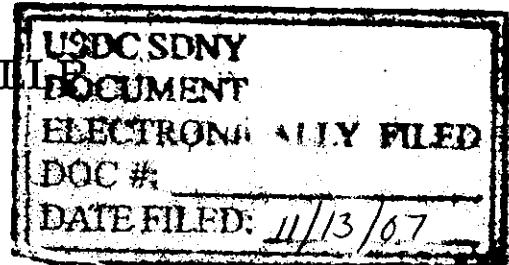
Dear Judge Peck:

We represent lead plaintiffs in this action. We are writing in accordance with Local Civil Rule 37.2 to request an informal conference with the Court regarding a discovery issue. We seek an order from the Court modifying the stay of discovery set forth in Section 21D(b)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(b)(3)(B) to permit lead plaintiffs to conduct limited document discovery of non-parties believed to have relevant information concerning the issues in this litigation.

The gist of this action is the alleged concealment of material information in or about April/May 2007 concerning the merger plans of Bioenvision Inc. ("Bioenvision") one of the defendants herein and Genzyme Corporation. On October 23, 2000, Genzyme Corporation ("Genzyme") completed its acquisition of Bioenvision and shares of the Company have ceased trading and the company has been delisted from NASDAQ.

We believe that there may be significant evidence relevant to the issues in the case in the possession of non-parties who were involved in the planning, negotiation formulation and execution of the acquisition of Bioenvision by Genzyme. These non-parties have no obligation to preserve evidence absent service of a subpoena duces tecum.

The PSLRA provides that, despite the presumptive stay of discovery pending the resolution of a motion to dismiss, "particularized discovery [may be had where] necessary to



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November 13, 2007

**MEMO ENDORSED -1)**

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Honorable Andrew J. Peck

November 13, 2007

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preserve evidence" 15 U.S.C. 78u-4(b)(3)(B). In recognition of the fact that "the imposition of a stay of discovery may increase the likelihood that relevant evidence may be lost," Congress enacted Section 78u-4(b)(3)(C) of the PSLRA. Senate Report No. 104-98, 104<sup>th</sup> Congress, reprinted in 1995 U.S.C.C.A.N. 679, 693 (1995) Section 78u-4(b)(3)(c) provides:

During the pendency of any stay of discovery pursuant to [the PSLRA], unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under the Federal Rules of Civil Procedure.

15 U.S.C. § 87u-4(b)(3)(C). The courts have recognized that permitting plaintiffs to serve subpoenas directing third parties to preserve evidence "further[s] Congress' intent by subjecting relevant evidence to a 'stay put' directive whether in the hands of the parties, or in those of third parties. . ." In re Grand Casinos, Inc. Sec. Litig., 988 F. Supp. 1270, 1272 (D. Minn. 1997).

The non-parties plaintiff's we wish to serve with a subpoena duces tecum include Genzyme, Inc.; UBS (the Company's financial advisor); David Lucci (the Company's former CFO); Perseus Soros Pharmaceutical Fund L.P. (a large (13%) stockholder of the Company with nominees on the Company's Board)); Aisling Capital, by Dennis Purcell Senior Managing Director, (an investment fund that managed Perseus); Banc of American Securities LLC (Genzyme's financial adviser); and all executive officers and directors of the Company no longer associated with the Company. We believe that these parties may have had communications with the Company or Genzyme concerning a merger with Genzyme during and before the Class Period. The persons/entities have no obligation to preserve evidence since they are not parties. Similar orders were granted in In re Worldcom Inc. Sec. Litig., 234 F. Supp. 2d 301, 305 (S.D.N.Y. 2002); In re Labrane Sec. Litig., 333 F. Supp. 2d 178, 181 (S.D.N.Y. 2004); In re Royal Ahold N.V. Sec. & ERISA Litigation, 220 F.R.D. 246, 249 (D. Md. 2004); In re Tyco Int'l Ltd. Multidistrict Litigation, MDL No. 02-1335-B 2003 WL 23830479 (D.N.H. Jan. 29, 2003); Gervis v. Berg, No. 00-CV-3362, 2005 WL 3299436 (E.D.N.Y. Nov. 29, 2005); In re Grand Casinos, Inc. Sec. Litig., 988 F. Supp. 1270, 1272 (D. Minn. 1997).

We have sought, but not received, defendants' counsel's consent to the limited modification we are seeking. We are not seeking the modification to obtain discovery to use in our amended complaint. We are on schedule to file same on November 22, 2007 as directed by the Court.

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Honorable Andrew J. Peck

November 13, 2007

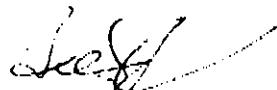
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We will make ourselves available at the convenience of the Court for a conference.

Respectfully submitted,

SQUITIERI & FEARON, LLP

By:

  
Lee Squitieri (LS-1684)

LS:mm

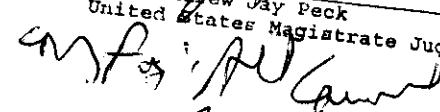
cc: Alexis L. Shapiro, Esq.

**MEMO ENDORSED 11/13/07**

The Court is informed by counsel "Meyerowitz" respects to my party that we are present but not present. Please consider it done. It is  
that of close to us 11/4.

SO ORDERED

  
Hon. Andrew Jay Peck  
United States Magistrate Judge

  
Lee Squitieri

## FAX TRANSMITTAL SHEET



**ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT**

Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933  
Telephone No.: (212) 805-0036

**Dated: November 13, 2007**

**Total Number of Pages: 4**

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Glenn S. Kerner, Esq.	212-355-3333

## **TRANSCRIPTION:**

**MEMO ENDORSED 11/13/07**

**The Court is inclined to allow "preservation" subpoenas to non-parties that reference preservation but not production. Defense counsel is to advise of its position by close of business 11/14.**

**Copy to: Judge Sidney H. Stein**